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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,463	01/05/2006	Kimoon Kim	1751-393	1347
6449 7590 12/28/2009 ROTHWELL, FIGG, ERNST & MANBECK, P.C. 1425 K STREET, N.W. SUITE 800 WASHINGTON, DC 20005				
EXAMINER				
GROSS, CHRISTOPHER M				
ART UNIT		PAPER NUMBER		
1639				
NOTIFICATION DATE		DELIVERY MODE		
12/28/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

Office Action Summary

Application No.

10/563,463

Applicant(s)

KIM ET AL.

Examiner

CHRISTOPHER M. GROSS

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1639

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 7-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/22)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Responsive to communications entered 6/8/2009 and 10/6/2009. Claims 1-3,7-9 are pending. Claims 4-6 have been canceled. Claims 1-3,7-9 are examined herein.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/8/2009 has been entered.

Inventorship

In view of the papers filed 6/8/2009, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(b).

In view of the papers filed 6/8/2009, the inventorship in this nonprovisional application has been changed by the deletion of Woo Jeon and Kangkyun Baek.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Priority

The present application was filed on 1/5/2006 and is a 371 of PCT/KR04/01652 filed 07/05/2004.

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d) to Korean patent 10-2003-0045523 (referred to as '523) filed

07/05/2003. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Applicant has perfected priority to '532 with a certified translation provided to the Office on 6/8/2009.

Withdrawn Rejection(s)

The rejection of claims 1,3,7-9 under 35 U.S.C. 102(e) as being anticipated by **Kim et al** (US Patent Application 2006/0207938; referred to as '938) is hereby withdrawn in view of applicant's perfection of Korean patent 10-2003-0045523 filed 7/5/2003, antedating Kim et al.

The rejection of claims 1-3,7-9 under 35 U.S.C. 102(a) as being anticipated by **Jon et al** (2003 JACS 125:10186-10187 – IDS entry 6/30/2008) is hereby withdrawn in view of applicant's 12/30/2008 declaration indicating authors Soo-Young Kim, Young Jin Jeon and Jae Wook Lee did not make inventive contributions toward the subject matter in the present application and the aforementioned 6/8/2009 37 CFR 1.48 granted petition, deleting Woo Jeon and Kangkyun Baek as inventors.

New Provisional Claim Rejection - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(f) he did not himself invent the subject matter sought to be patented.

Claims 1-3, 7-9 are provisionally rejected under 35 U.S.C. 102(f) because the applicant did not invent the claimed subject matter.

It does not appear the current inventive entity: Kimoon Kim; Jin Kang; Sang Jon; Selvapalam Narayanan and Dong Oh invented the claimed subject matter, based on the following.

The 6/8/2009 declaration asserts that the subject matter of present claims 1-3, 7-9 were invented by the current inventive entity whereas Woo Jeon and Kangkyun Baek invented the subject matter of present claims 4-6.

Notably, however, the certified translation of Korean patent 10-2003-0045523, includes claims 1-3, 7-9 of the present application but Woo Jeon (now deleted) *is* listed as an inventor, seemingly contradicting applicant's declaration. Furthermore, the certified translation of Korean patent 10-2003-0045523 also includes claims 4-6, yet does *not* list Kangkyun Baek as an inventor, who applicant asserts invented the subject matter set forth in claims 4-6.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER M. GROSS whose telephone number is (571)272-4446. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on 571 272 0951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher M Gross
Examiner
Art Unit 1639

cg

/ Christopher S. F. Low /
Supervisory Patent Examiner, Art Unit 1639